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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,438	07/03/2003	Philip D. Lowance	LOWAP-004A	7704

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7590 01/07/2005

EXAMINER
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MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,438

Applicant(s)

LOWANCE, PHILIP D.

Examiner

Joseph C. Merek

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3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/12/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/20/04, 12/26/04
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "34" has been used to designate both the balloon and finger indent. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "generally oval configuration of the injection control member" must be shown or the feature(s) canceled from the claim(s). The injection control member 52 as seen in The drawing appears to be round. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 18, there is no antecedent basis for the limitation handle.

***Claim Rejections - 35 USC § 103***

Claims 12-17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US 4,235,343) in view of Farrell (US 3,910,743).

Regarding claim 12, Thompson teaches the first and second containers where the second container has the recess for holding the first container and a thickened wall as seen in Figs. 2 at 30 which has upper and lower edges. The upper edge of wall 30 has a thickened stepped portion. Thompson makes the container from plastic but does not teach the balloon molding. Farrell as seen in Figs. 1-5, teaches molding a plastic container using a molding balloon. It would have been obvious to employ the apparatus of Farrell to manufacture the container of Thompson to employ a cooling liquid as taught by Farrell. See Col. 1, lines 24-31 (Farrell) where the advantages of balloon molding are noted. Farrell as seen in Fig. 2 the injection control member is 40, which controls the flow of the plastic material and forms the gap that allows the plastic to enter the cavity. Regarding claim 13, the preform is made of a plastic material. Regarding claim 14, see Fig. 3 (Farrell), where the gap between the injection unit body 30 and the injection control unit 40 is seen at the lead line to 66. The gap extends left to right. The gap is the area on the left end of 40 and extends to the stepped to the right of the injection opening. Regarding claim 15, the term generally is a very broad term and allows for a great deal of variation from a true oval. The circular cross-section of 40 satisfies this limitation. Regarding claim 16, the (i) step does not require any structure that is not in the reference. The injection control unit 40 moves in a strategic manner. The control unit moves to the right as shown in the drawing. The up or down is matter of orientation and does not require any structure that is not in the reference. The gap is

selectively accessed. The gap is closed as seen in Fig. 2 (Farrell) since the injection control unit 40 fills the gap. Fig. 3 (Farrell) shows the gap is partially exposed. The gap runs beyond the length of the balloon as seen in Fig. 4. Regarding claim 17, the modified container of Thompson does not teach offsetting the recess approximately 90 degrees from the parting line. Official notice is taken that it is well known to offset recesses from a parting line approximately 90 degrees. It would have been obvious to offset the recess from the parting line to keep the recess structure in only one of the mold halves to reduce tooling costs. Regarding claim 19, see Fig. 4 of Thompson where the shelf is 25. Regarding claim 20, official notice is taken that it is well known to employ scallops or indents in molding apparatus to make the preform with different thicknesses. It would have been obvious to employ these to provide more material to the recessed area since it will be stretched further.

#### New Rejection

Claims 12-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gendron (US D303,087) in view of Farrell (US 3,910,743). Regarding claim 12, Gendron teaches the first and second containers where the second container has the recess for holding the first container and a thickened wall as seen in Fig. 9 on the right edge of the recess. Gendron makes the container from plastic (the cross section in Figs. 8-10 is for plastic) but does not teach the balloon molding. Farrell as seen in Figs. 1-5, teaches molding a plastic container using a molding balloon. It would have been obvious to employ the apparatus of Farrell to manufacture the

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container of Gendron to employ a cooling liquid as taught by Farrell. See Col. 1, lines 24-31 (Farrell) where the advantages of balloon molding are noted. Farrell as seen in Fig. 2 the injection control member is 40, which controls the flow of the plastic material and forms the gap that allows the plastic to enter the cavity. There is no structure required by the limitation "first container" that is not satisfied by the spout. Since the spout has a cap it is a container and is capable of performing as such. The cap closes one end and the other end is open. Regarding claim 13, the preform is made of a plastic material. Regarding claim 14, see Fig. 3 (Farrell), where the gap between the injection unit body 30 and the injection control unit 40 is seen at the lead line to 66. The gap extends left to right. The gap is the area on the left end of 40 and extends to the stepped to the right of the injection opening. Regarding claim 15, the term generally is a very broad term and allows for a great deal of variation from a true oval. The circular cross-section of 40 satisfies this limitation. Regarding claim 16, the (i) step does not require any structure that is not in the reference. The injection control unit 40 moves in a strategic manner. The control unit moves to the right as shown in the drawing. The up or down is matter of orientation and does not require any structure that is not in the reference. The gap is selectively accessed. The gap is closed as seen in Fig. 2 (Farrell) since the injection control unit 40 fills the gap. Fig. 3 (Farrell) shows the gap is partially exposed. The gap runs beyond the length of the balloon as seen in Fig. 4. Regarding claim 19, see Fig. 7 of Gendron where the shelf is shown at the bottom of the recess. Regarding claim 20, official notice is taken that it is well known to employ scallops are indents in molding apparatus to make the preform with different

thicknesses. It would have been obvious to employ these to provide more material to the recessed area since it will be stretched further.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gendron (US D303,087) in view of Ferrell as applied to claim 12 above, and further in view of Sheptak (US 3,390,425). Regarding claims 17 and 18, the modified device of Gendron does not teach the handle is aligned with the parting line or the recess being 90 degrees to the parting line. Sheptak as seen in Figs. 1-3, teaches blow molding a similar container where the handle is aligned with the parting line. It would have been obvious to make the modified container of Gendron have the handle aligned with the parting line to make it easier to form the handle.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stansbury, Jr. et al (US 5,330,050) is cited for teaching a similar container with a handle where the handle is oriented along the parting line. Young et al (US D459,990) and Balavich (US 5,065,875) are both cited for teaching a container having a recess with another container in the recess.

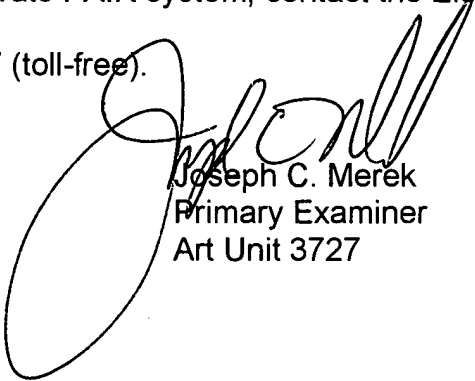
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is 571 272-4542. The examiner can normally be reached on Monday-Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek  
Primary Examiner  
Art Unit 3727